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## NEW RECOMMENDATION - ETHICS &amp; INTEGRITY STANDARDS

Most communities vest great authority, responsibility, and trust in the judgement of police officers. Public trust in police is defined as having a strong reliance on the integrity, ability, and character of the police. It can only exist when the police execute their duties fairly, courteously, and with no more force than necessary. A police department that conducts itself in this manner is said to be ethical and operating with integrity. This is the desired state that all police departments should strive to achieve.

The San José Police Department (SJPD) has placed great emphasis in enhancing the quality of police services by implementing community policing in every neighborhood throughout the City. In order for community policing to truly be effective, police officers must believe that they are in partnership with the public. At the heart of community policing is police integrity and one cannot exist without the other. Police officers realize the need to form a partnership with the community to fight crime, but police officers must move beyond the need to enlist community support to fight crime. The police and the community must develop mutual trust. Mutual trust implies that the

community will have faith in the integrity of the police and that the police will go beyond the realm of just trusting other police officers but extend that virtue to community partners.

Ethics, integrity, and the confidence to report police misconduct are all essential virtues that the police should align with the public they serve. The ethics of the individual police officer must be aligned with those of the police department and the police department's ethics and integrity standards must be aligned with those of the community.

How to align these integrity standards will be further developed in this chapter.

## METHODOLOGY

In assessing the ethical climate that exists in a police department, we must first start by asking, "What is ethics?" Webster's dictionary defines ethics as, the moral quality of a course of action. In the Independent Police Auditor's (IPA) research of this topic, many sources of information were examined. The first source examined was the San José Police Department's Duty Manual. This manual serves to give San José police officers direction, set parameters,

and provide guidelines to officers in the performance of their duties. The expected ethical conduct is covered in Section “C” of the police duty manual along with other proscribed conduct. The Law Enforcement Code of Ethics is also found in Section C.

In addition to the Duty Manual, an overview of the San José Police Department’s ethics program was provided by an Ethics instructor who has extensive knowledge and experience in this topic. It should be noted that the Ethics instructor was previously assigned to Internal Affairs and worked closely with the Independent Police Auditor staff.

The IPA has followed the Los Angeles Police Department’s Rampart scandal and has studied the L.A.P.D.’s Board of Inquiry Report. Ethical issues in this report were examined. Professor Erwin Chemerinsky’s independent analysis of this same report was also studied.

In addition, the IPA met and moderated a panel with Mr. Hubert Williams, President of the Police Foundation and a research fellow at Harvard Law School’s Center for Criminal Justice. Mr. Williams shared insights on ethical

and integrity issues facing law enforcement throughout the country.

A publication from the Commission on Peace Officer Standards and Training (POST) entitled, “A Global Market for Ethics” was also reviewed. In addition, many excerpts and concepts cited in this IPA report were taken directly from a book published by the U.S. Department of Justice entitled, Police Integrity, Public Service with Honor.

Lastly, the IPA reviewed an excellent study conducted by the Australia Criminal Justice Commission entitled, “Ethical Conduct and Discipline in the Queensland Police Service.” This study captured the views of recruits, first year, and experienced officers through analysis of an ethics survey. The most remarkable aspect of this survey is that it asks the officer taking the survey, to examine a scenario and respond to the ethical question from four different perspectives, the typical working police officer, the police department, the public, and him/herself.

### ***CORRUPTION STARTS SMALL***

Police officers, in order to execute their

duties, must be allowed to use discretion. No codified set of laws, policy and procedure manuals or other written guidelines can ever cover all the life situations that officers encounter. Officers are expected to assess a situation and take the course of action that in their opinion is in the best interest of society and in compliance with the law. A further expectation is, that police officers will act in a moral, prudent, and just manner. A lesson learned from the Rampart scandal is that corruption starts small. These LAPD officers had a history of rationalizing small takes, and they engaged in lies of convenience. Rampart officers routinely conducted searches without warrants and intimidated people into consenting. The LAPD failed to correct this unethical, errant behavior which progressed from misconduct to criminal conduct.

### ***IMPLEMENTING AN EFFECTIVE ETHICS PROGRAM***

Can integrity be taught? Most experts agree that integrity must be learned and reinforced.

Police departments must be led by

example; chiefs set the ethical tone for the organization because he/she will ultimately determine the character of the organization. When William Lansdowne became Chief of Police of the San José Police Department, he brought a vision: to create and implement an effective ethics-training program. Ethics is now a four hour block as part of the Continuous Professional Training (CPT), in the police department. Everyone from patrol officers to the Chief of Police receives this training. The importance of ethics training must be made clear to the rank and file; therefore, Chief Lansdowne makes it a point to be present at the beginning of every ethics class.

The IPA monitored one of these classes and observed that the class was taught with a unifying theme and a clear conception of the goal of ethics training. This training did not appear to be provided for the purpose of appeasement. Officers were taught that the strict adherence to the police department's ethical standards would mean "Career Survival." Officers were told that they were more likely to lose their jobs and a career in police work due to an unethical decision than over a "shooting." The instructor emphasized

the impact that termination or ending their career in a cloud of shame through a criminal indictment has on their families. It was only a few years ago that former San José Police Officer John Venzon was convicted for a series of burglaries and thefts while on duty. A sad reminder that even the safest large city in the United States is not immune to police corruption.

The application of ethical standards in the San José Police Department starts in the hiring process and will not end until the officer leaves employment. Police recruits start their first day of training at the police academy with an ethics course. The SJPD also has specialized ethics courses for the Field Training Officers (FTO). FTO trainers receive a block of four hours of ethics training which they in turn are expected to apply and to reinforce these police department's ethical standards in the recruits they train.

Both the Christopher and the Mollen Commission, which reviewed the conduct of the Los Angeles and New York Police Departments, respectively, identified deficiencies in first line supervision as a cause of police corruption. Police officers in the SJPD

have bargained for the right to transfer every six months to different police beats. At times, officer's yearly evaluations are done by different supervisors who have not had the benefit of monitoring the officer's performance for the entire evaluation period. Supervisor shopping is a practice that allows the grouping of lax supervisors with errant police officers. The SJPD will soon begin to monitor first line supervisors by tracking the subject officer's supervisor and monitoring to see if the recurrence of complaints is due to a lack of supervision.

### *WHISTLEBLOWER POLICY*

It is clear that the San José Police Department has invested significant resources to create a police environment where officers are trained to make decisions governed by ethical standards. Officers must apply these ethical standards not just to their own behavior, but also to the behavior of fellow officers. Joseph McNamara, former San José Chief of Police wrote that, "Police misconduct can only be curtailed when police officers fear that their fellow officers will turn them in." The SJPD does not have clear guidelines detailing

what an officer can expect if he/she reports misconduct. While it is common knowledge that failure to report misconduct can result in disciplinary action up to and including termination, there is no department policy that specifically informs, protects, and encourages reporting of police misconduct.

Rules and expectations concerning whistleblowers must be clear and realistic. Both the public and police officers must be made to feel confident in reporting misconduct. If what to expect is not clearly spelled out and information detailing the process is not readily available, neither the public nor police officers are likely to come forward. Because of the dangerous nature of a police officer's job and their dependency on fellow officers for their safety, it is understandable why an officer would feel greater loyalty to his/her peers. Whistleblowers must be given realistic and practical guidelines to assess and carry out this most difficult duty.

Creating an environment where the honest cop will come forward remains a challenge for most police departments. Often times officers feel they are being

punished for whistleblowing. A lawsuit filed in January 2001, against the LAPD, alleged that nearly 200 officers were punished for reporting misconduct and illegal activities. The plaintiff officers allege that they suffered discrimination, harassment, and other forms of retaliation for whistleblowing.

A concern frequently expressed by potential and actual complainants is the fear of retaliation from the officers who are the subject of their complaints.

They express fear that the officer, directly, or through his influence on other officers, will harm the complainant or his/her family. The IPA has not seen clear evidence of a pattern of police retaliation. Although complainants have reported having had subsequent contact from the subject officer while their complaint was pending, very rarely did the officer intentionally make contact. For the most part, the situation entailed the officer responding to a call at the same location, or a vehicle stop where it is unlikely that the officer recognized the complainant prior to the stop.

A whistleblower must be reassured and supported not as an informant but as one who has the best interest of the organization at heart. The Mollen

Commission, led by Judge Milton Mollen, conducted the corruption investigation of the New York Police Department. Judge Mollen wrote, "Dissenters must have a voice and should be encouraged to come forward." He posed these questions, "What happens to good, idealistic recruits? What happens in training, supervision, and patrol that changes these people?" Judge Mollen ended his report by saying, "The biggest victim of the crooked cop is the honest cop." The IPA agrees that there is no doubt that safeguards for whistleblowers are imperative to any successful ethics and integrity program.

### *EVALUATING THE EFFECTIVENESS OF ETHICAL TRAINING AND STANDARDS*

After assessing the San José Police Department's ethics training, the IPA inquired and was informed that the effectiveness of the department's ethics training had not been evaluated. Can ethical conduct be measured? Currently, the SJPD relies on Internal Affairs files and yearly personnel evaluations as a measure of an officer's adherence to ethical conduct.

In evaluating the effectiveness and direct impact that ethical training may have on the individual officer, one first has to look at the organizational standards of conduct that the police department has set and assess if these standards have been clearly communicated to the officers. If they have, are these standards strictly enforced, and is swift action taken when violations occur? Other areas to evaluate are:

- What is the level of knowledge about the disciplinary and complaint process?
- Do officers believe that the police department has the necessary resources and measures to detect and deter wrong doing? Or is there a sense that ethical conduct occurs out of personal choice and not because of the likelihood of getting caught?
- Is the organization viewed as punitive rather than supportive?
- Do officers feel that they are rewarded for proper conduct or is the only opportunity to interact with command staff when the officer does something wrong?
- Do officers feel positive not only about their immediate supervisors but about upper management?
- Do officers think that upper management is approachable and are they setting a good example for new officers or does the police department condone two standards, one for officers and sergeants and one for lieutenants and above?
- Do officers feel that they must stick together, do they have an us vs. them mentality?
- Do officers feel that the public does not understand their role as police officers?
- Do police officers feel comfortable reporting misconduct?
- Do officers think that it is not unusual for an officer to turn a blind eye to the misconduct of other officers?
- Do officers feel that it is not worth it to snitch on a fellow officer and do they fear retaliation, getting the cold shoulder, being ostracized or worst being labeled a “rat”?
- Do officers know the consequences of unethical behavior?

Answers to these questions are necessary to properly assess the effectiveness of ethical and integrity training programs. The SJPD should seek to obtain answers to the questions above and not depend on anecdotal data.

The Research and Preventative Division of the Australia Criminal Justice Commission (CJC) conducted a very successful program that sought to measure attitudinal changes in ethical conduct. The CJC conducts ongoing research by regularly administering a survey to recruits, first year, and experienced officers to monitor changes in attitudes or views towards ethical conduct. The survey includes a series of scenarios based on situations in which police might find themselves involved. The scenarios describe conduct by police which, if proven, would generally result in some form of disciplinary action. For each scenario the officer was asked to rate the conduct described on a 10-point scale, ranging from “not at all serious” to “extremely serious,” according to how

the conduct would be rated by the respondents themselves, the typical working police officer, the police department, and the public. The survey seeks to find out what the police think of the disciplinary and complaint procedures by analyzing their responses to a number of scenarios of unethical conduct by police officers. The surveys, which take approximately 20 minutes, are administered in class while officers are attending the academy or in-house training. Surveys contain no identifying information and all participants are assured that their anonymity will be protected.

The IPA wrote to the Director of the Research and Prevention Division of the Criminal Justice Commission to request authorization to replicate their survey. Dr. David Brereton, the Director, agreed to allow use of their study. Even though this study was designed for implementation in Australia, the scenarios used in the survey are scenarios applicable to any police department in the United States. There is no known police department in the United States that is currently using this type of measurement tool to assess

the ethical and integrity views of their police officers. With some modification, this survey would serve as an excellent tool to evaluate and measure the ethical training program of the San José Police Department. Ultimately, this measurement tool would be used to align the views of the individual officer with those of the police administration and the public.

### ***POLICY IMPLICATIONS FOR STRATEGY DEVELOPMENT***

The research data that can result from creating a measuring tool to identify shifts in views towards ethical conduct would be extremely useful in developing strategies in the following areas as previously identified by the CJC.<sup>1</sup>

Some of these strategies are:

- modifying management styles;
- adopting a more proactive and coordinated approach to promoting attitudinal and behavioral changes in the SJPD.
- Changing police views as to the seriousness of misconduct;
- clarifying ethical standards;
- encouraging “rank and file” police officers to report misconduct by their peers;
- enhancing the training of officers once they are in the field;

### ***OPTIMUM TIME TO STRENGTHEN THE ETHICS PROGRAM***

A common problem encountered in implementing or strengthening ethics training in a police department is that it is usually done in the aftermath of a crisis or when public confidence is at a record low. The result is that police officers resent or view this type of sensitivity training as a way to appease the critics and likewise, the public is skeptical of the motives for this type of training and suspicious of the results.

In the Fall of 2000, the City of San José commissioned a random, city-wide customer satisfaction survey<sup>2</sup> wherein, 1,000 residents were surveyed. Of those surveyed, 25% or 250 residents replied that they had contact with the San José Police Department in the past year. Of the 250 respondents, 77% stated that the police officer was

<sup>1</sup> Ethical Conduct and Discipline in the Queensland and Police Service, November 1995.

<sup>2</sup> City of San José 2000 Community Survey - Report of Survey Results. November 14-19, 2000.

courteous and pleasant to deal with; 64% responded that generally speaking the San José Police Department treats all members of the public either very or somewhat fairly.

The San José Police Department is currently enjoying a high level of public confidence, is not in the midst of a crisis, and has the reputation of being on the cutting edge of new and proactive policing programs. Therefore, this is the optimum time to implement a process to align ethical values between the police department and the citizens of San José.

The SJPD should implement a process by which the police department can assess the current knowledge, attitudes, or views of police officers towards the required ethical conduct expected of each officer. The police department should find out what its officers think of the disciplinary and complaint procedures. Thereafter, the SJPD should conduct ongoing research to monitor any shifts in the attitudes or views of the SJPD officers on issues relating to ethical conduct.

## *RECOMMENDATIONS*

1. To reassure the public that it is safe to file complaints, the Chief of Police should create policy to prohibit actual or attempts to threaten, intimidate, mislead, or harass potential or actual complainants and/or witnesses.
2. The Chief of Police should include, in all citizen complaint printed materials, wording that clearly states that, “Retaliation against complainants is prohibited. The Chief of Police will not tolerate retaliation and immediate action will be taken if an officer retaliates against a complainant directly or indirectly.” or other similar words that emphasizes the Chief’s position.
3. Neither the San José Municipal Code nor the San José Police Department Duty Manual contain a comprehensive Whistleblower policy. By incorporating federal Whistleblower guidelines, the Chief of Police should create a comprehensive Whistleblower policy for the San José Police Department.
4. The Chief of Police should continue to develop Ethics and Integrity Training to reflect and align with the ethics expected by the citizens of San José.